



Ninety-Eighth Legislature - Second Session - 2004
Committee Statement
LB 154

Hearing Date: March 13, 2003

Committee On: Government, Military and Veterans Affairs

Introducer(s): (Schimek)

Title: Change the Secretary of State's authority to accept or refuse filing of initiative and referendum petitions

Roll Call Vote – Final Committee Action:

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

6	Yes	Senators Aguilar, Burling, Combs, McDonald, Schimek, Vrtiska
0	No	
1	Present, not voting	Senator Smith
1	Absent	Senator Brown

Proponents:

Senator DiAnna Schimek
Mark McGuire

Representing:

Introducer
Nebraska State Education Association

Opponents:

Craig Bernbeck
Julie Schmit-Albin

Representing:

Self
Nebraska Right to Life

Neutral:

Representing:

Summary of purpose and/or changes:

LB 154 provides for a new cause of action if the Secretary of State either accepts or refuses to accept an initiative or referendum petition for filing.

If the Secretary of State refuses to accept for filing any initiative or referendum petition, any resident may apply for a writ of mandamus. If it is decided by the court that the petition is legally sufficient, the Secretary of State must accept the petition. If the Secretary of State has accepted a petition, but the court finds it be not legally sufficient, the Secretary of State must reject the petition.

The Secretary of State will provide no comment or opinion on any particular aspects or provisions of any petition but will only declare that the petitions is or is not legally sufficient.

"Not legally sufficient" is defined to mean an initiative or referendum petition that:

- interferes with the legislative prerogative that the necessary revenue of the state will be raised by taxation in the manner as the Legislature may direct,
- violates Neb. Rev. Stat. Sections 32-1401—32-1416, which are the statutes dealing with initiative and referendum petitions,
- violates the United States Constitution,
- violates the laws of the United States, or
- fails to comply with the procedural guidelines of the Nebraska Constitution.

LB 154 also amends section 32-1412, which allows a resident to file a writ of mandamus if the Secretary of State refuses to place on the ballot any measure proposed by an initiative petition. The bill provides that if a suit is filed to require the Secretary of State to place the issue on the ballot and the signatures have not been verified, the Secretary of State will proceed with the signature verification unless the suit is dismissed or the court orders otherwise. Such suits may be commenced at any time after the initiative or referendum petition has been filed and prior to the election at which the measure is to be submitted to the registered voters.

Explanation of amendments, if any:

Senator DiAnna R. Schimek, Chairperson